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Intellectual Property Causes
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Attorney Docket No. P20416In re application of: T. THORÖE SCHERB et al.

Serial No. : 09/769,275

Group Art Unit: 1731

Filed : January 26, 2001

Examiner: M. Halpern

For : FORMER AND PROCESS FOR PRODUCING A TISSUE WEB

THE COMMISSIONER OF PATENTS AND TRADEMARKS
 Washington, D.C. 20231

Sir:

Transmitted herewith is an election with traverse in the above-captioned application.

- ___ Small Entity Status of this application under 37 C.F.R. 1.9 and 1.27 has been established by a verified statement previously filed.
 ___ A verified statement to establish small entity status under 37 C.F.R. 1.9 and 1.27 is enclosed.
 ___ A Request for Extension of Time.
X No additional fee is required.

The fee has been calculated as shown below:

| Claims After Amendment | No. Claims Previously Paid For | Present Extra | Small Entity | | Other Than A Small Entity | |
|-------------------------------------|--------------------------------|---------------|--------------|-----|---------------------------|--------|
| | | | Rate | Fee | Rate | Fee |
| Total Claims: 69 | *69 | 0 | x 9= | \$ | x 18= | \$0.00 |
| Indep. Claims: 5 | **5 | 0 | x 42= | \$ | x 84= | \$0.00 |
| Multiple Dependent Claims Presented | | | +140= | \$ | +280= | \$0.00 |
| Extension Fees for Month | | | | \$ | | \$0.00 |
| Total: | | | | \$ | Total: | \$0.00 |

*If less than 20, write 20

**If less than 3, write 3

___ Please charge my Deposit Account No. 19-0089 in the amount of \$_____.

N/A A Check in the amount of \$_____ to cover the *filing/extension* fee is included.

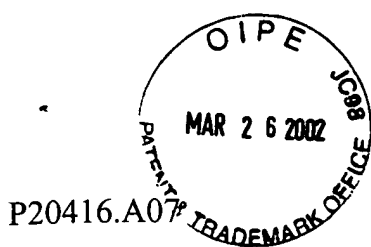
X The Commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 19-0089.

X Any additional filing fees required under 37 C.F.R. 1.16.

X Any patent application processing fees under 37 C.F.R. 1.17, including any required extension of time fees in any concurrent or future reply requiring a petition for extension of time for its timely submission (37 CFR 1.136) (a)(3)

Neil F. Greenblum
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Thomas THORÖE SCHERB et al.

Art Unit: 1731

Appln. No. : 09/769,275

Examiner: M. Halpern

Filed : January 26, 2001

For : FORMER AND PROCESS FOR PRODUCING A TISSUE WEB

ELECTION WITH TRAVERSE

Assistant Commissioner of Patents
Washington, D.C. 22039

RECEIVED
MAR 28 2002
TC 1700

Sir:

In response to the Official Action of February 26, 2002, in which a one-month statutory period for response was set to expire on March 26, 2002, Applicants elect the invention defined by the Examiner as Group I comprising process claims 1-47, 68 and 69. The above-noted election is made with traverse for the reasons set forth below.

REMARKS

Upon entry of the present election, Applicants will have elected with traverse the invention defined as Group I comprising claims 1-47, 68 and 69.

In the restriction requirement, the Examiner set forth a requirement to restrict the claimed invention to one of two groups of distinct inventions under the provisions of 35

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U.S.C. § 121. The groups delineated by the Examiner are as follows:

I. Claims 1-47, 68 and 69, drawn to a former for producing a tissue web, classified in class 162, subclass 300; and

II. Claims 48-67 and 70, drawn to a process for producing a tissue web, classified in class 162, subclass 109.

The Examiner asserts that the inventions are distinct because the apparatus can be used to practice another and material different process, such as “making tobacco sheets.” Applicants respectfully traverse this restriction requirement.

Applicants note that all of the claims are classified in the same class, that is, class 162. Accordingly, the recitations of each of the independent claims, as well as the various dependent claims are so closely related for examination purposes as to make the restriction requirement inappropriate. For this reason alone, it is submitted that restriction is inappropriate and that all the claims in the present application should be examined together.

Furthermore, it is believed that Invention I and Invention II are not materially different for examination purposes. The searches are very likely to be overlapping because the process claims recite that the tissue web is produced in a “former.” Thus, no undue burden would be placed on the Examiner when examining all of the claims together.

Moreover, the restriction requirement set forth by the Examiner omits one of the two criteria for a proper restriction requirement now established by the U.S. Patent and

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Trademark Office policy. As set forth in M.P.E.P. § 803 "an appropriate explanation" must be set forth by the Examiner as to the existence of a "serious burden" if the restriction were not required. By virtue of the Examiner's requirement and because the claims of the various groups are so closely related and are all directed to an apparatus and method related to producing a tissue web in a former, it is submitted that there is no serious burden on the Examiner in examining all of the claims together. Furthermore, as noted above, the search for all of the claims includes a significant amount of overlap. Thus, no serious burden would come to bear on the Examiner.

For all these reasons, and consistent with the office policy as set forth in M.P.E.P. § 803, Applicants respectfully request that the Examiner reconsider the position taken in the above-mentioned Official Action and withdraw the restriction requirement in the present application. Accordingly, the Examiner's restriction requirement is believed to be improper and has been traversed for the reasons set forth above.

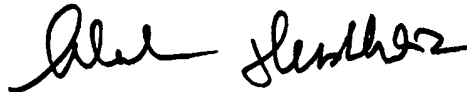
Nevertheless, in order to be fully responsive, Applicants have elected with traverse the invention defined by the Examiner as claims 1-47, 68 and 69 in the event that the Examiner chooses not to reconsider and withdraw the restriction requirement.

The undersigned hereby authorizes the Commissioner to charge any fee necessary for the consideration of this paper to Applicants' Deposit Account No. 19-0089.

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Should the Examiner have any questions or comments regarding the present response or this application, the Examiner is respectfully invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,
Thomas THORÖE SCHERB et al.



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March 19, 2002
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